

### REMARKS

The Office Action dated October 16, 2008, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-21 are now pending in this application. Claims 1-21 stand rejected.

The rejection of Claims 1-21 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent Publication No. 2003/0060266 to Baerlocher (hereinafter referred to as “Baerlocher”) is respectfully traversed.

Baerlocher describes a gaming method that requires a player at a gaming device (10) to wager a number of credits to qualify or be eligible for a main or first bonus game. The gaming device (10) determines whether a bonus triggering symbol or symbol combination (hereinafter referred to as a “bonus trigger”) for the first bonus game appears along a payline (56) or in a scatter arrangement. ONLY after the bonus trigger for the first bonus game is generated does the gaming device (10) determine whether the player has wagered at least a first predefined number of credits to initiate the first bonus game. More specifically, Baerlocher provides, in paragraph [0065], that only after the bonus trigger for the first bonus game is generated by playing a main game will the gaming device (10) determine whether the number of credits wagered is adequate to initiate the first bonus game. If the player has not wagered enough to initiate the first bonus game, the gaming device (10) then determines whether the player has wagered at least a second predefined number of credits, which is less than the first predefined number. More specifically, Baerlocher provides, in paragraph [0067], that only after a bonus trigger is generated by playing the main game will the gaming device (10) determine whether the number of credits wagered is adequate to initiate a second bonus game. In other words, only if BOTH conditions have been met, the bonus trigger *and* the wagering of the second predefined number of credits, will the gaming device (10) then initiate the second bonus game. In addition, if the bonus trigger is not generated but a second, different bonus trigger for the second bonus game has been generated, and at least the second predefined number of credits has been wagered, the gaming device (10) initiates the second bonus game. Further, as described in Claim 1 of Baerlocher, the first bonus game is

“triggered upon the occurrence of a bonus game trigger” and the second bonus game is “triggered upon the occurrence of the bonus game trigger” in combination with a specific wager being made. Notably, contrary to the assertions in the Office Action, the gaming method of Baerlocher requires BOTH - at least one bonus trigger *and* wagering of a predefined number of credits – before the gaming device (10) will initiate *any* bonus game.

Claim 1 recites a method for controlling access to a secondary game on a gaming device during play of a primary game, wherein the method comprises “accepting a wager . . . comparing the accepted wager to a preselected wager threshold . . . initiating the secondary game when the accepted wager equals the preselected wager threshold regardless of any outcome of the primary game . . . and reporting at least one of the outcome for play of the primary game and an outcome for play of the secondary game.”

Baerlocher does not describe nor suggest a method as recited in Claim 1. More specifically, Baerlocher does not describe nor suggest comparing an accepted wager to a preselected wager, and initiating a secondary game when the accepted wager equals a preselected wager threshold regardless of any outcome of the primary game. Rather, Baerlocher describes initiating a first bonus game *only after detection of a first bonus trigger and a first predefined number of credits*. Baerlocher also describes initiating a second bonus game *only after detection of a bonus trigger and a second predefined number of credits*, if the player did not wager the first predefined number of credits but did wager a lower second predefined number of credits. As such, unlike the present invention that requires ONLY the wager to meet a preselected wager threshold to initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires BOTH that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the

secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Baerlocher.

Claims 2-6 depend from independent Claim 1. When the recitations of Claims 2-6 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-6 likewise are patentable over Baerlocher.

Claim 7 recites a system for allowing secondary play on a gaming device having a primary game and a secondary game. The system comprises "a prestored trigger . . . a determiner structured to compare a wager to the prestored trigger . . . and a controller coupled to the determiner and structured to initiate the secondary game responsive to a signal received from the determiner, wherein initiation of the secondary game by the controller is based only on the comparison of the wager to the prestored trigger regardless of either a timing of the comparison of the wager to the prestored trigger and an outcome of the primary game, said controller further structured to report at least one of the outcome for play of the primary game and an outcome for play of the secondary game."

Baerlocher does not describe nor suggest a system for allowing secondary play on a gaming device having a primary game and a secondary game as is recited in Claim 7. More specifically, Baerlocher does not describe nor suggest a controller structured to initiate the secondary game responsive to a signal received from a determiner, wherein initiation of the secondary game by the controller is based *only* on a comparison of a wager to a prestored trigger regardless of either a timing of a comparison between a wager and a prestored trigger and an outcome of the primary game.

Rather, Baerlocher describes initiating a first bonus game *only after detection of a first bonus trigger and a first predefined number of credits*. Baerlocher also describes initiating a second bonus game *only after detection of a bonus trigger and a second predefined number of credits*, if the player did not wager the first predefined number of credits but did wager a lower second predefined number of credits. As such, unlike the present invention that requires **ONLY** the wager to meet a preselected wager threshold to

initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires BOTH that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 7 is submitted to be patentable over Baerlocher.

Claims 8-15 depend from independent Claim 7. When the recitations of Claims 8-15 are considered in combination with the recitations of Claim 7, Applicant submits that dependent Claims 8-15 likewise are patentable over Baerlocher.

Claim 16 recites a method of initiating a secondary game on a gaming device during play of a primary game, wherein the method comprises “permitting play on the primary game . . . accepting a wager . . . comparing the wager to a predetermined threshold, wherein the comparing occurs regardless of an outcome of the primary game . . . permitting play on a secondary game when the wager equals the predetermined wager threshold, wherein permission to play the secondary game is based only on the comparison of the wager to the predetermined threshold regardless of a timing of the comparison of the wager to the predetermined threshold . . . reporting a first outcome responsive to play on the gaming device . . . and reporting a second outcome responsive to play on the gaming device.”

Baerlocher does not describe nor suggest a method of initiating a secondary game on a gaming device, as is recited in Claim 16. More specifically, Baerlocher does not describe nor suggest permitting play on a secondary game when a wager equals a predetermined wager threshold, and wherein permission to play the secondary game is based *only* on the comparison of the wager to the predetermined threshold regardless of a timing of a

comparison of the wager to the predetermined threshold. Rather, Baerlocher describes initiating a first bonus game *only after detection of a first bonus trigger and a first predefined number of credits*. Baerlocher also describes initiating a second bonus game *only after detection of a bonus trigger and a second predefined number of credits*, if the player did not wager the first predefined number of credits but did wager a lower second predefined number of credits. As such, unlike the present invention that requires ONLY the wager to meet a preselected wager threshold to initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires BOTH that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 16 is submitted to be patentable over Baerlocher.

Claims 17-20 depend from independent Claim 16. When the recitations of Claims 17-20 are considered in combination with the recitations of Claim 16, Applicant submits that dependent Claims 17-20 likewise are patentable over Baerlocher.

Claim 21 recites a system for accessing a secondary game on a plurality of gaming machines during play of a primary game, wherein the system comprises “a server coupled to the plurality of gaming machines . . . a wager threshold . . . a data input device configured to accept a wager . . . a comparator configured to relate the wager to the wager threshold and generate a signal to initiate a secondary game based only on the relation of the wager to the wager threshold, wherein the relation of the wager to the wager threshold occurs regardless of at least one of an outcome of the primary game, and a timing of the relation of the wager to the wager threshold.”

Baerlocher does not describe nor suggest a system for accessing a secondary game on a plurality of gaming machines, as is recited in Claim 21. More specifically, Baerlocher does not describe nor suggest a comparator configured to relate a wager to a wager threshold and generate a signal to initiate the secondary game based *only* on the relation of the wager to the wager threshold, wherein the relation of the wager to the wager threshold occurs regardless of at least one of an outcome of the primary game, and a timing of the relation of the wager to the wager threshold.

Rather, Baerlocher describes initiating a first bonus game *only after detection of a first bonus trigger and a first predefined number of credits*. Baerlocher also describes initiating a second bonus game *only after detection of a bonus trigger and a second predefined number of credits*, if the player did not wager the first predefined number of credits but did wager a lower second predefined number of credits. As such, unlike the present invention that requires **ONLY** the wager to meet a preselected wager threshold to initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires **BOTH** that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 21 is submitted to be patentable over Baerlocher.

Moreover, as started in M.P.E.P. §2131, a claim is anticipated by a reference only if each and every element as set forth in the claim is found, either expressly or inherently described, in the cited reference. Significantly, Baerlocher fails to teach that comparing the accepted wager to the preselected wager can occur before or after play of the first game,

initiating a bonus game based *only* on the comparison of the accepted wager to the preselected wager threshold regardless of the outcome of the first played game, or that initiating of the second game can occur either simultaneously with or subsequent to play of the first game. In contrast, Baerlocher *requires* that the first game be completed resulting in a bonus trigger *and* a specific number of credits be wagered by the player.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1-21 be withdrawn.

The rejection of Claims 6 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Baerlocher in view of U.S. Patent 5,910,048 to Feinberg (hereinafter referred to as “Feinberg”) is respectfully traversed.

Baerlocher is described above.

Feinberg describes a method of operating a slot machine (10) to limit a player's losses. The player is identified at the slot machine (10) using a player card (52) that includes player data such as the number of plays made by the player, an amount played by the player, an amount of time of play at the slot machine (10), and an amount paid out to the player or lost by the player. During play, the slot machine (10) tracks the amount played and the amount paid out to the player. The slot machine (10) also determines whether the player has lost more than a predetermined loss amount. If the player has lost more than the predetermined loss amount, then the player's account is credited for the difference between the predetermined loss amount and the player's actual loss.

Claim 1 is recited above.

No combination of Baerlocher and Feinberg describes nor suggests a method for controlling access to a secondary game on a gaming device, as is recited in Claim 1. More specifically, no combination of Baerlocher and Feinberg describes nor suggests comparing an accepted wager to a preselected wager, and initiating a secondary game when the accepted wager equals a preselected wager threshold regardless of any outcome of the primary game. Rather, Baerlocher describes initiating a bonus game *only after detection of a bonus trigger*

*and a predefined number of credits* and Feinberg describes a method of operating a slot machine to limit a player's losses by comparing the player's actual losses to a predetermined loss amount. As such, unlike the present invention that requires ONLY the wager to meet a preselected wager threshold to initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires BOTH that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Baerlocher in view of Feinberg.

Claim 6 depends from independent Claim 1. When the recitations of Claim 6 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claim 6 likewise is patentable over Baerlocher in view of Feinberg.

Claim 7 is recited above.

No combination of Baerlocher and Feinberg describes nor suggests a system for allowing secondary play on a gaming device having a primary game and a secondary game, as is recited in Claim 7. More specifically, no combination of Baerlocher and Feinberg describes nor suggests a controller structured to initiate the secondary game responsive to a signal received from a determiner, wherein initiation of the secondary game by the controller is based *only* on a comparison of a wager to a prestored trigger regardless of either a timing of a comparison between a wager and a prestored trigger and an outcome of the primary game. Rather, Baerlocher describes initiating a bonus game *only after detection of a bonus trigger and a predefined number of credits* and Feinberg describes a method of operating a



slot machine to limit a player's losses by comparing the player's actual losses to a predetermined loss amount. As such, unlike the present invention that requires ONLY the wager to meet a preselected wager threshold to initiate the secondary game, regardless of the outcome of the primary game, Baerlocher requires BOTH that the first game result in a bonus trigger *and* that the player must have wagered a predefined number of credits to trigger any bonus game. Moreover, unlike the present invention where the method enables the gaming device to determine access to a bonus game before or after reporting an outcome of the primary game, Baerlocher does not provide for such a determination. Notably, the gaming method in Baerlocher does not provide eligibility to play any bonus games if the first game played does not result in a bonus trigger, whereas in the present invention, the gaming device can initiate the secondary bonus game during or after play of the first game, and initiates the secondary game regardless of the outcome of the first game played as long as the accepted wager equals the preselected wager threshold needed for the secondary game. Accordingly, for at least the reasons set forth above, Claim 7 is submitted to be patentable over Baerlocher.

Claim 15 depends from independent Claim 7. When the recitations of Claim 15 are considered in combination with the recitations of Claim 7, Applicant submits that dependent Claim 15 likewise is patentable over Baerlocher in view of Feinberg.

As set forth in M.P.E.P. § 2143, in order to establish a prima facie case of obviousness, three basic criteria must be met: (1) the prior art references, when combined, must teach each and every element of the claim; (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine or modify the references; and (3) there must be some reasonable expectation of success.

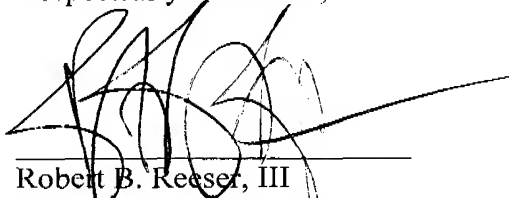
Applicants respectfully submit that a prima facie case of obviousness has not been established because the cited combination of references fails to disclose each and every element of the rejected claims, and/or because there is no motivation to modify the references in order to achieve the claimed subject matter. Specifically, it is to be noted that each of the cited references fail to disclose or suggest comparing the wager to the preselected wager threshold or trigger either regardless of the outcome of the primary game, and initiating a

secondary bonus game based *only* on a comparison of a wager to a preselected wager threshold or prestored trigger, wherein the secondary game can be initiated either simultaneously with or subsequent to play of the first game. The cited references *require* that a first game be played and that the first game results in a bonus trigger *before* determining whether the player has wagered a predetermined number of credits to trigger a bonus game. Because of this, the gaming method described in the cited references are unable to guarantee access to a bonus game based only on the amount wagered regardless of the outcome of the first played game, regardless of the outcome of the primary game. As a result, the cited references, alone and in combination, clearly fail to disclose each and every element of the rejected claims. Furthermore, there is no motivation to modify the cited references in order to arrive at the claimed subject matter because neither of the references describe determining access to the bonus game except after completion of the first played game, nor do the cited references suggest playing a bonus game regardless of the outcome of the first played game. In view of the foregoing, Applicants respectfully submit that the burden has not been met in establishing a prima facie case of obviousness. Accordingly, reconsideration of the rejection of Claim 6 and 15 is respectfully requested.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 6 and 15 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert B. Reeser, III', is written over a horizontal line.

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